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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,606	03/19/2004	Peter Cagliari	930024-2008	9555

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NEW YORK, NY 10151

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

MAIL DATE	DELIVERY MODE
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09/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,606

Applicant(s)

CAGLIARI ET AL.

Examiner

Jila M. Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-11, 13 and 15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lepage et al. (US 6,457,265) in view of Saillet et al. (US 6,938,362). Lepage '265 discloses a sports boot for gliding boards such as snowboard or skates, comprising a first part in a first material (rigid core 1 & 2, made from polyurethane with a shore hardness of 64) and a second part superposed on said first part and a second material (supple parts 11 & 12 made of polyurethane with shore hardness of 54) covering at least partially the rigid core, and reinforcement means (3, 4, 5, 6, 7, 8, 9, & 10), wherein the reinforcement means are at least partly formed by at least one frame in synthetic material internally reinforced with mineral or synthetic fibers positioned at least partially between said parts (see column 3, lines 58-67 and column 4, lines 1-5). See Figures 1-3 embodiments. Lepage does not appear to disclose the mineral or synthetic fibers being embedded in a matrix. Saillet discloses a reinforcement for a boot, wherein one of the layers of said sandwich structure is made of a composite material based on woven or nonwoven fibers included in a matrix, wherein: the fibers comprise a member selected from the group consisting of the following materials: carbon fibers, glass fibers, metallic fibers, natural and synthetic textile fibers, and mixtures of such materials; the matrix comprises a member selected from the group consisting of the following materials: epoxy, polyester, and phenolic resins; thermoplastics, including polyamides,

polyurethanes, polyolefins, and mixtures of such materials; and the core of the sandwich structure comprises a member selected from the group consisting of the following materials: a synthetic foam, wood and a honeycomb structure, to improve the torsional stiffness, efficiency, durability, lightness, cost, foot protection, and industrial workability. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the reinforcement means of Lepage from a thermoplastic matrix as taught by Sallet to improve the torsional stiffness, efficiency, durability, lightness, cost, foot protection, and industrial workability and yield only predictable results. "[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond that person's skill." *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1740, 82 USPQ2d 1396 (2007).

With respect to claim 2, see column 2, lines 63-64.

With respect to claims 3-6, see column 3, lines 58-67 and column 4, lines 1-5.

With respect to claim 13, note frame/supports (6 & 9), which extends above the heel and obliquely toward the bottom and the front of each side of the rigid core.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lepage-Sallet as applied to claim 1 above, and further in view of Basso (US 2001/0018805). Lepage-Sallet as described above discloses all the limitations of the claims except for the rigid core comprising a frame (17) extending transversely under the rigid core, between heel and toe, and obliquely rearward, on each side of the rigid core. Basso discloses a boot with a frame extending transversely under the core, between heel and toe, and

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obliquely rearward, on each side of the core, which will provide high forward bending inertia, and low lateral bending inertia desirable in snowboarding boots. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a frame to the sports boot of Lepage '265 as taught by Basso to provide high forward bending inertia, and low lateral bending inertia.

Response to Arguments

3. Applicant's arguments filed 07/12/2007 have been fully considered but they are not persuasive. Contrary to applicant's argument the reinforcement means are positioned at least partially between said first and second parts as much as the reinforcement means (3, 4, 5, 6, 7, 8, 9, & 10) are located between (shared by) the first part (rigid core 1 & 2) and second part (supple parts 11 & 12) as shown in Figures 3 and 4.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM

September 07, 2007